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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

PEDRO ARMANDO QUANT, JR.,

Defendant and Appellant.

H038150

(Santa Clara County

Super. Ct. No. CC069243)

In November 2000, pursuant to a negotiated plea, defendant Pedro Armando Quant, Jr., pleaded guilty to residential robbery and admitted the allegation that he personally used a firearm in the commission of the offense. He was sentenced to an aggregate prison term of 19 years. In 2012 (11 years after being sentenced), defendant filed a motion to correct the abstract of judgment, which motion was denied. Defendant filed a timely appeal. We will affirm.

FACTUAL BACKGROUND¹

In the early morning of April 20, 2000, a home invasion robbery took place in San Jose. Defendant and Hector Gutierrez, both armed with semiautomatic handguns and wearing ski masks, accosted Isidiro Lopez in his driveway while he was leaving for work. Defendant and Gutierrez forced their way into the home and bound and gagged the six

¹ The factual background is derived from the probation officer's report included in the clerk's transcript.

occupants. They demanded to know where the victims kept their money and guns, and after pistol-whipping Isidiro Lopez, his wife said the money was kept at her husband's work. Defendant and Gutierrez ransacked the house, taking \$7,000 to \$8,000 in cash, jewelry, and clothing. Defendant and Gutierrez, then joined by a third person, took Isidiro Lopez at gunpoint in his van to his work and stole approximately \$85,000 in cash. The victims later identified Gutierrez and defendant in separate photo lineups.

PROCEDURAL HISTORY

Defendant was charged by information with eight felonies, i.e., kidnapping to commit robbery (Pen. Code, § 209, subd. (b); count 1),² four counts of residential robbery (§ 213, subd. (a)(1)(A); counts 2 through 5), and three counts of felony false imprisonment (§§ 236-237; counts 6 through 8).³ It was further alleged as to counts 1, 2, 4 that defendant personally used a firearm in the commission of the offenses (§ 12022.53, subd. (b)); as to count 5, that defendant was a principal in the offense and that in its commission, at least one principal personally used a firearm (§ 12022.53, subds. (b), (e)(1)); and as to counts 6 through 8, that defendant personally used a firearm (§ 12022.5, subd. (a)(1)).

On November 30, 2000, defendant pleaded guilty to one count of residential robbery and admitted the firearm allegation with the understanding that the remaining counts and allegations would be dismissed and with the further understanding that he would receive a top-bottom prison sentence of 19 years. On January 23, 2001, the court sentenced defendant to an aggregate prison term of 19 years, calculated by imposing the upper term of nine years for the admitted offense, and adding 10 years for the firearm allegation under section 12022.53, subdivision (b). Defendant received a total of 315

² All further statutory references are to the Penal Code unless otherwise stated.

³ Codefendant Hector Gutierrez was charged in the same information.

days of custody credits, calculated as consisting of 274 actual days and 41 days of conduct credits.

On February 21, 2012, defendant filed a motion to correct the abstract of judgment. He claimed that he was entitled to 274 days of conduct credits pursuant to a January 2010 amendment to section 4019. By order of March 9, 2012, the court denied the motion.⁴ Defendant filed a timely notice of appeal in which he challenged the court's denial of his motion to amend the abstract of judgment. The matter is properly the subject of appeal, since the court's order is one occurring after judgment affecting defendant's substantial rights. (§ 1237, subd. (b).)

DISCUSSION

We appointed counsel to represent defendant in this court. Appointed counsel filed an opening brief which stated the case and the facts but raised no specific issues. We notified defendant of his right to submit written argument on his own behalf within 30 days. We have received no written argument from defendant.

We have reviewed the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Based upon that review, we have concluded that there is no arguable issue on appeal.

⁴ In denying defendant's motion, the court noted the existence of a clerical error in the abstract of judgment, namely, that next to the granting of 41 days of local conduct credits, the box "4019" was checked, rather than the box "2933.1." As the court noted, section 2933.1, which was in effect at the time defendant was sentenced, limited conduct credits to no more than 15 percent of the defendant's actual period of confinement where he or she was convicted of certain "violent felon[ies]" specified in section 667.5, subdivision (c), of which robbery is one. The court held that since "the probation report indicates that defendant's credits were limited pursuant to Penal Code section 2933.1 [and m]ore importantly, the sentencing court's calculation was under Penal Code section 2933.1," the abstract of judgment should be, and was ordered, corrected to reflect the proper code section under which conduct credits were awarded.

DISPOSITION

The order denying defendant's motion to modify the abstract of judgment, and the order on the court's own motion modifying the abstract to correct a clerical error, are affirmed.

Márquez, J.

WE CONCUR:

Premo, Acting P.J.

Mihara, J.